

MINUTES OF THE GENERAL PURPOSES COMMITTEE
Thursday, 27th September 2007 at 7.00 pm

PRESENT: Councillor John (Chair) and Councillors Blackman (Vice Chair), Bessong, Beswick, Lorber, J Moher, and Wharton.

Apologies were received from Councillors D Brown and Castle.

1. Declarations of Interest

There were none.

2. Minutes of Previous Meetings

RESOLVED:-

that the minutes of the previous meetings of the General Purposes Committee on 26th June 2007 be received and approved as an accurate record.

3. Matters Arising

There were none.

4. Deputations

There were none.

5. Pension Implications for Transferred Staff

On 27th April 2004, the General Purposes Committee agreed the policy governing pension provision for staff transferred from the Council to an organisation contracted to provide services to the Council. Members agreed that the policy should be reviewed once directions had been made under sections 101 and 102 of the Local Government Act 2003 (LGA).

Before the Committee was a report asking Members to consider amendments to this policy which were necessary due to a direction from the Secretary of State for Communities and Local Government, which was due to come into effect on 1st October 2007. Debra Norman, Deputy Borough Solicitor, presented the report and highlighted the amendments that would be taking effect. For example, it was noted that there was a change relating to outsourcing, under which the Director of Finance and Corporate Resources would be authorised to decide, where a contract for the provision of services was being re-tendered, whether there were exceptional circumstances justifying the Council not requiring in the contract either access to the local Government Pension Scheme (LGPS) or an alternative pension scheme which was at least broadly comparable to the LGPS. Duncan McLeod, Director of Finance and Corporate Resources, also commented on this

change, noting that the GMB Unions had made a response to this point during consultation. The GMB had queried the circumstances under which this amendment might take effect. Duncan McLeod explained that this would be likely to apply to a very limited number of situations and that in those cases the Council would thoroughly investigate the options and possibly seek a one off payment to compensate for any potential losses. Duncan McLeod informed the Committee that this was the only concern from the GMB.

In response to a question from Councillor Blackman, Duncan McLeod expressed the view that in retrospect, were this policy to have been in place before, he was unaware that there would have been employees who would have been affected by the changes.

It was also asked, with regard to re-tendering of contracts, what would happen in the event of a withdrawal of an interim certificate issued by the Government Actuaries Department (GAD). It was noted that the interim certificate would show whether the contractor was able to provide a pension scheme of broad comparability. Therefore it was explained that failure to do so would result in the contractor being in breach of their contract. Debra Norman suggested that in this scenario the contractor would have to do whatever was necessary to ensure that they could achieve a pension scheme that was broadly comparable. Also on this point, Councillor Moher asked whether the Council was alert to the possibility that some companies might employ their own actuaries. In view of this he asked whether the council had rigorous processes in place to ensure that the transfer of pensions was safeguarded. In response it was explained that as actuaries were professionally qualified they were consequently liable for their actions. It was also emphasised that the test required of pension schemes for the certificate was the benefits they offered rather than their future investment performance thus it was considered to be easier to make a comparison of pension schemes in this regard. Duncan McLeod added that the majority of contractors that worked with the Council were familiar with working with local authorities and thus were aware of the expectations.

RESOLVED:-

- (i) that the Council's policy concerning the securing of a pension scheme for former Council staff transferring to a private or voluntary sector employer should be as set out in paragraphs 3.13 and 3.14 of the report;
- (ii) that the Director of Finance and Corporate Resources should decide, where a contract for the provision of services is being re-tendered, whether there were exceptional circumstances justifying the Council not requiring in the contract either access to the Local Government Pension Scheme (LGPS) or an alternative pension scheme which was at least broadly comparable to the LGPS;

- (iii) that the Director of Finance and Corporate Resources should decide in any particular case ,after taking advice from the Borough Solicitor, whether the Council should commence a contract for the provision of services notwithstanding the failure of the contractor to comply with the terms of the contract concerning pension protection for transferring Council or former Council employees. In the event the contract is commenced in these circumstances the Director of Finance and Corporate Resources should require the contractor to comply with such conditions seeking to protect the pension rights of the transferring employees as the Director considers appropriate;
- (iv) that it be noted that relevant documentation including the Council's Contract Procurement and Management Guidelines, governing procurement procedure and practice will be amended to comply with the policy set out in paragraphs 3.13 and 3.14 of the Director's report and to refer to the authorisations given in resolutions (ii) and (iii) above;
- (v) that it be noted that the People Centre would issue guidance regarding the requirements of the policy, set out in paragraphs 3.13 and 3.14 of the Director's report and authorisations given in resolutions (ii) and (iii) above, to all units of the Council to ensure that procurement officers understand their obligations and are duly compliant.

6. Proposed Changes to the Board of Fortunegate Community Housing

Before Members was a report proposing changes to the board of Fortunegate Community Housing (FCH). It was noted that a report had been submitted to the Executive meeting on 15th January 2007 indicating that the current level of Council representation on FCH board would be reduced from three to two.

Councillor Sneddon suggested that it would be most appropriate for Councillors Hirani and J Long to continue on the FCH board. This was because they were Ward councillors for Dudden Hill and Harlesden respectively and these were the wards in which the FCH operated. Noting that the report referred to attendance, Councillor Sneddon explained that Councillor Hirani had been unwell but was now better and able to attend future meetings. On this issue Councillor Blackman emphasised the importance of Councillor representatives attending at meetings for the boards of housing associations. Debra Norman informed the Committee that Legal Services were carrying out a review of outside bodies and this would cover some of the process issues affecting these bodies. Debra Norman noted the suggestion that the role of alternates at meetings of outside bodies could be looked into.

RESOLVED:-

that Councillor Dunwell be de-selected from the Fortunegate Housing Board.

7. Northwick Park Public Rights of Way 34 & 37 Diversion Order

Michael Read, Assistant Director (Policy & Regulation), presented this report that sought Members approval for the making of a diversion order in respect of Public Rights of Way 34 & 37 (PROW 34 & 37) at Northwick Park, Watford Road, Harrow, Middlesex. It was explained that three sections of Public Rights of Way lay within a golf facility area owned by Playgolf (Northwick Park) Limited. The effect of the orders being proposed would be to divert the footpath around the driving range of the golf facility. It was noted that a previous diversion order had been opposed as the Planning Inspector felt that the diversion was not in the interest in the public. It was also highlighted that the Planning Inspector felt that there was an issue of public safety. Michael Read informed Members that the Diversion Order had since been amended to address the safety issues raised by the Inspector. It was also felt that the new Order would be in the public's interest and it would result in the footpath being 260 metres longer i.e. around an extra 3 minutes walk.

Members were advised that, should they approve the Order, there would be a formal process for further consultation. It was explained that there had already been some informal consultation to which the department had received 12 responses. Whilst objections had been raised in these responses, it was noted that none of them had offered an alternative suggestion. Michael Read explained that there was a full analysis of these responses in the report and these highlighted that residents had some concerns about Playgolf's attitudes. In response to questions Michael Read explained that it was likely there would be a Public Inquiry as this would be triggered if it were felt that there were substantive objections. With regard to the weight and substance of the objections and the defence of the Order at a Public Inquiry, Michael Read explained that there was a strong case for approving the Order. It was noted that the situation could not remain as it was, as the footpath passed through a driving range thus putting commuters in danger. Additionally it was noted that Playgolf were in agreement with the proposals.

Councillor Beswick asked about the possible conflict within the Council as it were both owner of the land and interested party. Debra Norman advised that there would be no such conflict as the Council would have to separate its roles, furthermore the Council had a statutory duty to make a diversion.

RESOLVED:-

- (i) that the Order for the diversion of so much of PROW 34 & 37 by way of creation of a new footpath and the extinguishment of the former lengths of the relevant sections of PROW 34 & 37 pursuant to section 119 of the Highways Act 1980 detailed on the plan attached as Appendix 3 of the Director's report;

- (ii) that the Director of Transportation should enter into discussions with parties affected by the Orders;
- (iii) that the availability of compensation to persons affected by the closure of accesses pursuant to the Orders be noted;
- (iv) that the Director of Transportation Services in consultation with the Borough Solicitor should take all necessary steps for the promotion of the Orders including publishing the requisite notices, considering any objections and representations received and reporting back to members if thought appropriate. Otherwise the Director of Transportation should take all necessary steps to confirm the Orders, instruct Counsel and experts to provide evidence and prepare the case for the Orders and arrange for any inquiry whenever required into the making of the Orders;
- (v) That upon the confirmation of the Orders the Director of Transportation should take all necessary steps to implement the Orders made.

8. Sub-Committee Membership Changes

Committee Members were advised that Councillor Coughlin should be de-selected as a member of the Brent Pension Fund Sub-Committee in order to bring the membership in line with the composition as set out in Standing Orders. In response to questions Members were advised that the legality of previous decisions was not in question.

RESOLVED:-

that Councillor Coughlin be de-selected as a member of Brent Pension Fund Sub-Committee.

9. Any Other Urgent Business

There was none.

The meeting ended at 7.40 pm.

A JOHN
Chair